

**REMARKS**

Upon entry of the present amendment, claim 1-3, 13 and 18-20 will be amended so that claims 1-9 and 11-20 will remain pending, because claim 10 is a canceled claim having been canceled in a previous amendment. Claims 14-20 stand withdrawn from consideration as being directed to a non-elected invention.

By the amendment herein, the claims have been amended to be even more explicitly directed to the filler consisting of the reinforcement fibers that have been at least one of ground or cut so that reinforcement fibers and filler in the fiber-composite material consists of the reinforcement fibers and the filler consisting of the reinforcement fibers that have been at least one of ground or cut, as suggested by the Examiners during a May 27, 2010 telephone interview.

Reconsideration of the rejections of record and allowance of the application in view of the following remarks are respectfully requested.

**Statement of Interview**

Applicant expresses appreciation for the courtesies extended by Primary Examiner Veronica Ewold and Examiner Saeed M. Huda during a May 27, 2010 telephone interview with Applicant's representative.

During the interview, Applicant's representative requested verification that the Office Action mailed April 8, 2010 replaced the Office Action mailed March 17, 2010 and reset the period for response so that the six month statutory period for response is measured from the April 8, 2010 date. The Examiner confirmed that the April 8, 2010 Office Action reset the date for response of the March 7, 2010 Office Action so that the six month statutory period is based upon the April 8, 2010 date of the new Office Action.

Reference was made by Applicant's representative that the Office Action improperly indicates at page 2 that the elected claims are 14-20, because these claims are actually held to be withdrawn as not being elected. The Examiners acknowledged that the restriction requirement will be reviewed upon presentation of a written response.

Regarding the art based rejections, the Examiners argued that fibers can be present in the polymer, and these fibers can have various lengths, such as the reinforcing fibers having a cut length of at least 3 mm and preferably at least 10 mm as disclosed in Cogswell, at column 6, beginning at line 30. The Examiners asserted that Applicant should establish that one having ordinary skill in the art would understand the fibers of Cogswell only comprise reinforcing fibers and not fillers. The Examiners noted that Applicants' fillers can be less than 20 mm, such as recited in claim 3. The Examiners' contended that some of the fibers can be considered to be reinforcing fibers and some of the fibers can be considered to be fillers. The Examiners contended that filler can be broadly interpreted, and Applicants would need to establish that the rejection is improperly interpreting filler, such as by filing a definition of filler that is inconsistent with the position taken by the Examiners.

It was noted that the documents used in the rejections disclose separate fillers other than the asserted filler of cut fiber. The Examiners contended that Applicant's claims do not exclude the presence of other fillers, and suggested amending of the claims to limit the filler to ground or cut reinforcing fiber. In this regard, the Examiners appeared to agree that such an amendment should overcome the rejection of record.

**Claim of Foreign Priority**

**Applicant has repeatedly requested and once again requests that the Cover Sheet of the next communication from the Patent and Trademark Office be completely filled in to acknowledge the claim of foreign priority and receipt of all of the certified copies in this national stage application.**

**Response To Restriction Requirement**

Claims 14-20 have been withdrawn from consideration as being directed to a non-elected invention by the Examiner; however, the Office Action incorrectly states, "Applicant's election with traverse of claim 14-20 and in the reply filed on 01/04/2010 is acknowledged." Therefore, correction of the record is requested to clearly state which claims stand withdrawn and how they are considered to stand withdrawn.

Moreover, Applicant once again traverses the requirement because the basis for the requirement is not clearly presented. The Examiner is reminded that the requirement contends that one or more reasons apply. However, the requirement still does not specifically indicate which of the one or more reasons is applicable under the present circumstances. In this regard, Applicant notes that to support a requirement for restriction, the reasons should be stated with respect to the claimed subject matter, and should provide a clear indication of the reasons for restriction.

In any event, rejoinder of non-elected claims 14-20 is respectfully requested upon allowance of the elected claims.

In view of the foregoing, it is respectfully requested that the Examiner reconsider the requirement for restriction, and withdraw the same so as to give an examination on the merits on all of the claims pending in this application.

### **Response To Art-Based Rejections**

The following three art based rejections are set forth in the Office Action.

- (a) Claims 1, 4-9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,883,624 to Spaay.
- (b) Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,713,283 to Cogswell et al. (hereinafter "Cogswell").
- (c) Claims 2, 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,883,624 to Spaay or U.S. Patent No. 4,713,283 to Cogswell in view of U.S. Patent No. 4,975,261 to Takabatake.

In response to these grounds of rejection and as suggested by the Examiner's during the above-noted telephone interview, Applicant's independent claims 1 and 18 have been amended to more explicitly recite the filler consisting of the reinforcement fibers that have been at least one of ground or cut so that reinforcement fibers and filler in the fiber-composite material consists of the reinforcement fibers and the filler consisting of the reinforcement fibers that have been at least one of ground or cut.

None of the documents used in the rejections of record appears to teach or suggest such claimed subject matter. As discussed with the Examiners during the above-noted interview, each of Spaay and Cogswell discloses the addition of fillers that are not the filler consisting of the reinforcement fibers that have been at least one of ground or cut. For example, the

Examiner's attention is directed to Spaay, beginning at column 4, line 67 wherein it is disclosed that additives and fillers such as fine gravel, sand, marbles can be added. Moreover, attention is directed to Cogswell column 1, beginning at line 49, wherein various fillers and their definitions are disclosed and exemplified as compared to Cogswell column 1, beginning at line 63, wherein reinforcing fibers are exemplified.

Moreover, neither of Spaay nor Cogswell provides any reason why one having ordinary skill in the art would have modified their disclosures to arrive at the subject matter recited by Applicants. Thus, any combination of Spaay or Cogswell with Takabatake, whether such combination is appropriate made or not, would not have arrived at Applicant's claimed subject matter.

Therefore, any combination of Spaay, Cogswell and/or Takabatake does not teach or suggest the combination of features recited in Applicant's independent claim 1, or Applicant's claims 2-9 and 11-13 which include the subject matter of claim 1. Moreover, each of these claims is patentable for the combination of features recited therein.

Applicant therefore submits that the rejections of record are without appropriate basis and should be withdrawn.

## CONCLUSION

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the restriction requirement and the rejections of record, and allow each of the pending claims.

Applicant therefore respectfully requests that an early indication of allowance of the application be indicated by the mailing of the Notices of Allowance and Allowability.

Should the Examiner have any questions regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
Ekkehard ROTH

Neil F. Greenblum  
Reg. No. 28,394

Arnold Turk  
Reg. No. 33094

October 7, 2010  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191